



December 2, 2015

BY HAND DELIVERY AND ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Alison Kutler
Chief, Consumer and Governmental Affairs Bureau
TRS Certification Program
Federal Communications Commission
Washington, DC 20554

Re: Update and Verification of Internet-Based TRS Certification Application, and Internet-Based TRS Certification Application, and Request for Confidential Treatment Pursuant to 47 C.F.R. §§ 0.457 and 0.459; Telecommunications Relay Service and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123

Dear Ms. Dortch and Ms. Kutler:

Pursuant to Section 64.606(g) of the Commission's rules, Sorenson Communications, Inc. ("Sorenson") hereby updates and verifies its application for certification as a provider of Internet-based telecommunications relay service, and Sorenson's affiliate, CaptionCall, LLC ("CaptionCall"), hereby updates and verifies its application for certification as a provider of Internet-based telecommunications relay service (together, the "CaptionCall Application").¹ An

¹ Pursuant to the *Second Report and Order* issued on July 28, 2011, Sorenson filed its original certification application on December 2, 2011, which was within 30 days after OMB published its approval in the Federal Register. See *Structure & Practices of the Video Relay Serv. Program*, Second Report & Order, 26 FCC Rcd. 10898, 10921 ¶ 59 (2011); 76 Fed. Reg. 68,328 (Nov. 4, 2011). Pursuant to 47 C.F.R. § 64.606(g), providers must certify compliance with 47 C.F.R. § 604 "on an annual basis."

In Sorenson's December 2011 application and subsequent updates, it applied for certification as both a VRS and an IP CTS provider. The present update is split into two documents: one addressing VRS and one addressing IP CTS. In the IP CTS update, Sorenson continues to apply for certification as an IP CTS provider. However, the update also seeks

original and one copy of the CaptionCall Application in confidential form is attached as Exhibit A, and an original and one copy of the CaptionCall Application in redacted form is attached as Exhibit B. Sorenson is also filing an electronic copy of the redacted version via ECFS.

Sorenson and CaptionCall request pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, that the Commission withhold from any future public inspection and accord confidential treatment to the highly confidential, business sensitive information contained in the Update and its exhibits, including: numbers of subscribers; details of training provided to communications assistants; call-handling capacity; internal compliance communications; contact information for Sorenson or CaptionCall employees; data related to the number of employees involved in TRS operations; identities of entities with ownership interests; descriptions of Sorenson's and CaptionCall's ownership structure; names of Sorenson's and CaptionCall's executives, officers and board members; sponsorship agreements; and descriptions of Sorenson's and CaptionCall's complaint procedures (collectively, the "Confidential Information"). All of the Confidential Information has been redacted from the version of the Annual Update attached as Exhibit B and filed electronically.

The Confidential Information constitutes highly sensitive commercial information that falls within Exemption 4 of the Freedom of Information Act ("FOIA"). Exemption 4 of FOIA provides that the public disclosure requirement of the statute "does not apply to matters that are ... (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4). Because Sorenson and CaptionCall are providing commercial information "of a kind that would not customarily be released to the public" in accordance with the application requirements in Section 64.606 of the Commission's rules, this information is "confidential" under Exemption 4 of FOIA. *See Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879 (D.C. Cir. 1992).

The Confidential Information related to individual employees also constitutes personally identifiable information that could, if disclosed, jeopardize the safety of the employees involved. This information merits confidential treatment under FOIA Exemptions 6 and 7(C), which protect information that "could reasonably be expected to constitute an unwarranted invasion of personal privacy" and that "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6), (7)(C); *see also Dep't of State v. Wash. Post Co.*, 456 U.S. 595, 601-02 (1982).

In support of this request and pursuant to Section 0.459(b) of the Commission's rules, Sorenson and CaptionCall hereby state as follows:

certification for Sorenson's affiliate, CaptionCall, LLC, to become an independent provider of IP CTS. Until the Commission grants CaptionCall an independent certification, Sorenson will continue to provide IP CTS services by subcontracting with CaptionCall. If the Commission grants CaptionCall its own independent certification, Sorenson expects that CaptionCall will begin to provide IP CTS independently and will submit its own requests for compensation directly to the fund administrator. At that time, Sorenson itself expects to cease offering IP CTS, as CaptionCall would then provide IP CTS to eligible consumers.

1. Identification of the Specific Information for Which Confidential Treatment Is Sought (Section 0.459(b)(1))

Sorenson and CaptionCall seek confidential treatment with respect to the Confidential Information—all of which has been redacted from the version of the Update attached as Exhibit B and filed electronically.

2. Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

Sorenson is updating and verifying its application for certification as a provider of Internet-based telecommunications relay service, and CaptionCall is applying for certification as a provider of Internet-based telecommunications relay service.

3. Explanation of the Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3))

The information described above is protected from disclosure for two reasons. First, the Confidential Information constitutes highly sensitive information about Sorenson's and CaptionCall's operations, costs, and strategic decisions, including as they relate to staffing, call center operation, redundancy and the ability to manage variable call volumes. This information constitutes highly sensitive commercial information "which would customarily be guarded from competitors." 47 C.F.R. § 0.457. Second, the Confidential Information related to individual employees constitutes personally identifiable information that could, if disclosed, jeopardize the safety of the employees identified. Disclosure of this information would result in an unwarranted privacy breach.

4. Explanation of the Degree to Which the Information Concerns a Service that Is Subject to Competition (Section 0.459(b)(4))

The Internet-based Telecommunications Relay Services market is highly competitive throughout the United States.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

Disclosure of the Confidential Information would result in two kinds of harm. First, disclosure would provide Sorenson's and CaptionCall's competitors with sensitive insights related to Sorenson's and CaptionCall's operations, costs, and strategic decisions—all of which would work to Sorenson's and CaptionCall's severe competitive disadvantage. Second, disclosure of information related to specific employees would result in privacy breaches that would impact the safety of those employees directly.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

Sorenson and CaptionCall do not make the Confidential Information publicly available.

7. Identification of Whether the Information Is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

Sorenson and CaptionCall do not make the Confidential Information publicly available.

Sincerely,



Stephen W. Miller
*Counsel to CaptionCall, LLC and Sorenson
Communications, Inc.*

Attachments

cc: Gregory Hlibok (email)